

July 20, 2009

Diane Nygaard
Preserve Calavera
5020 Nighthawk Way
Oceanside, CA 92056

**SUBJECT: CITY OF CARLSBAD HABITAT MANAGEMENT PLAN FOURTH
YEAR REPORT – RESPONSE TO COMMENT**

Dear Diane:

Thank you for your May 29, 2009 comments on the City's Fourth Year Habitat Management Plan (HMP) Annual Report (copy attached). We appreciate the attendance of the Preserve Calavera at our Annual Meeting on April 25, 2009 and your acknowledgement of the progress Carlsbad has made in implementing our HMP.

Attached is a copy of your letter with the City's responses noted after each comment. The City received two other letters commenting on the Fourth Year Annual Report; both of these letters referenced your letter and requested a copy of the City's responses. Pursuant to this request, your letter and the City's responses are being forwarded to the Buena Vista Audubon and Sierra Club.

Thank you again for your participation in our Annual Meeting and comments on our Annual Report. Please feel free to contact me at 760-602-4623 or Mike.Grim@Carlsbadca.gov if you have any questions.

Sincerely,

MICHAEL GRIM
Senior Planner

Attachments

c: Planning Director
Assistant Planning Director
Principal Planner de Cordova
Associate Planner Kennedy
Preserve Steward



Preserve Calavera

Coastal North San Diego County

May 29, 2009

*{Amended with City responses}
{July 20, 2009}*

Mike Grim, Senior Planner
City of Carlsbad
1635 Faraday
Carlsbad, CA

Subject: Comments on HMP Annual Report March 25, 2009

Dear Mr. Grim :

We appreciate that during this last year there has been significant progress in complying with the provisions of the City's Habitat Management Plan. However, it is clear there is still some catch-up to do. The following describes our concerns with the HMP annual report process, overall concerns with HMP implementation, and specific issues with the draft Year 4 HMP Annual Report.

Process concerns include:

- **Previous report on last three years was not presented publicly and has not been made available**

Your December 8, 2008 memo report to the City Council indicates that a number of changes were made to the report that had been distributed to the public and posted on the city website. However the actual final report is still nowhere to be found. The regular city website under the Planning Department includes the Year 1 Annual Report. The new HMP website includes the current draft Year 4 Annual Report. However the important Year1-3 report is not posted on either site and when requested all we received was a 6 page memo summary. It is impossible to determine progress or compare historical information when there is no information available on the last three years. In the absence of this information it is impossible to determine if errors reported previously, like the maritime succulent scrub reported in Canyon de las Encinas, have been corrected. We again request that the final version of the 3 year report be posted on the city website and be provided upon request.

The final Year 1-3 annual report has been posted at <http://www.carlsbadhmp.org/documents.html#hmpreports> since it was finalized in September 2008. The revisions that were made were described in the 6 page memo that you received.

- **The annual meeting is not structured to provide for meaningful input and problem-solving**

The annual meeting provides a great opportunity with key stakeholders all together. But the majority of the time was spent presenting information with very little left for Q and A and none for any substantive discussions about how the process can be improved. Most forums like this at least ask for an evaluation form so they can benefit from participant feedback.

We attempted to conduct a meeting that provided ample opportunity for Q&A and we believe that it concluded only when all questions and comments from the audience had been exhausted. Also, we provided evaluation forms at the sign up desk in front of the entrance, announced their availability during the meeting and encouraged participants to fill them out. However, we thank you for your comment and will consider the all feedback we received as we plan for the next annual meeting.

- **new HMP website provides a lot of great info- but needs to be linked to city website to be easily accessible to general public**

You really have to be an insider to know about this new website. This is important info that really needs to be easily accessible to everyone- but you can't get there from the general city website.

The HMP website address is listed in the report and was provided at the annual meeting. The City is currently undergoing a comprehensive redesign of its website which will be deployed in the near future. The redesigned website will make it easier for visitors to navigate the site and find important information. In the meantime, the HMP website can be accessed through the City's Planning Department Home Page by clicking on the "Habitat Management Plan" link. It can also be found with an internet search engine by using key words such as "Carlsbad HMP," "Carlsbad Preserve System," etc.

Key content concerns include:

- **Minimal action plan related to identified major threats and issues of concern**

Section 2.1.4 identifies the top threats to preserves from the preserve managers as 1) unauthorized human access and 2) invasive species. This is followed by a general discussion of management activities, and the same list of enforcement actions that have been talked about for the last four years. It seems reasonable that for at least the top two identified threats there would be a real action plan laid out for the next year. When will ordinances be adopted that have some real teeth? When will full enforcement staffing be on-board? What mechanisms will be instituted to coordinate the patrol activities between multiple preserves? When will there be a tracking system that identifies the number, location, and date of citations issued?

A recent new invasive of concern is the Oak borer. It has been reported in several sites in San Diego county, and several potential sites in Carlsbad. Shouldn't this new threat result at least in some early proactive assessment to minimize future damage? The annual report is supposed to identify those actions that will be taken during the next year to address the priority concerns. This report includes no real action plan for the next year.

*Each individual preserve has a work plan (i.e. action plan) for the coming year. These work plans are available to the public at <http://www.carlsbadhmp.org/documents.html#workplans>. With regard to the Oak borer (*Agrilus coxalis*), to date all confirmed locations have been in the eastern portions of the County. Local Preserve Managers have been alerted to the potential threat and are watching for any evidence in their preserves.*

Concrete enforcement activities have been conducted, many of which are new as of the 2007-2008 reporting period. Section 2.1.6 of the annual report describes these activities in some detail. Other efforts, such as developing City ordinances and identifying personnel needs, are being conducted through established procedures (e.g., creating an interdepartmental team to review issues and solutions, and presenting it to the Council). The City continues to work closely with the individual preserve managers to assist them in enforcement within their preserves.

- The failure to achieve rough step balance between conservation and habitat loss.

Conservation has not occurred in rough step (acres gained vs acres lost within 10%). According to the Year 3 report 1650 acres of sensitive habitat have been lost (73.8%) since the HMP was adopted while 584.7 acres have been conserved (26.2%). The Year 4 report shows no gains or losses, but concludes on page E-1 that 83% has been preserved and this increased to 88% when City-owned land became managed in December of 2008. The explanation of changes made in Section 1.4.3 does not include numbers by project making it impossible to identify how these numbers have changed so dramatically from the Year 3 to the Year 4 report. It also is not clear if all of the lands that do not meet all of the conditions for hard line preserve (like endowment in place, management entity under contract, conservation easement approved) are included or not. Somewhere there must be a project by project identification of this. Without being able to review roll-up numbers there will not be any confidence in the final totals.

Project by project totals are included in Appendix A. A total of 5,407 acres have been preserved (Appendix A, page 2, "Acres Inside Habitat Preserve" total). The target goal is 6,478 acres, which results in 83% ($5,407 \div 6,478$) of the target acreage for the preserve. Adding the City-owned lands that went from Proposed Hardline to Existing Hardline (310.4 acres), which are now under management, brings the total to 5,717.4 acres ($5,407 + 310.4$), which is now 88% of the preserve target ($5,717.4 \div 6,478$). Project-by-project totals from last year's report (Appendix B) can be compared with project-by-project totals from this year's report (Appendix A).

Pursuant to the Implementing Agreement, Existing Hardline preserves are not required to have endowments, management entities in place, and conservation easement. The requirement is to continue the management level that existed at the time of HMP adoption. Habitatrak tracks preserved habitat and does not differentiate between open space lands of different management levels. The Wildlife Agencies are charged with overseeing HMP Implementation, including "rough step." During preparation of the Annual Report, the City and Preserve Steward worked with the Wildlife Agencies to review all project impacts, preservation, and HMP Implementation and, after this review, it was determined that preservation has occurred in rough step with development.

- great expansion on information about linkages and wildlife corridors- but this needs to be taken to the next level

Much more analysis has gone into identifying the key linkages and wildlife movement corridors. Much more useful information has been collected and presented in a way that really helps to identify some of the remaining problems. But the report really needs to identify those problems- and develop an action plan for correcting them. This should include things like the needed

undercrossing of Palomar Airport road, areas where fencing is needed to prevent roadkill, and key pinch points.

This continues to be an implementation task in City HMP Implementation, and it is conducted as time and funding permits.

- **Mapping by covered species is another good addition to this report- but we seem to have lost mapping by habitat type.**

The table on pages 21 and 22 provides details of acres by habitat type. It would be helpful to also see this information presented as a map.

The GIS staff determined that the scale of the map is too small to show this level of detail for gains and losses. The habitats within each preserve can be seen in the Citywide Vegetation map or in the individual preserve Annual Reports and Preserve Management Plans.

The following are specific comments on the report:

Page Comment

- E-1 Presumably the City Mitigation parcel is the area around Lake Calavera. This area had habitat losses as a result of the dam repair project. There are mitigation requirements associated with those losses- and to our knowledge none of these restoration areas have met success criteria and been accepted as complete. Some of these were permanent and some were temporary impacts. It appears that this has all been ignored in this report.

The mitigation acreage for impacts associated with the Lake Calavera Dam Project were debited in Year 1 of the HMP, and reported in the HMP annual report for that period.

- E-1 This says there have been no gains or losses during the year but the 04-07 Three Year report page 1 shows 5956.7 acres conserved and this report says 5407.2 acres- a difference of over 500 acres. The Section 1.4 explanation doesn't clarify this difference.

310.4 acres of City-owned lands were originally considered Proposed Hardline (i.e., not to be tracked in Habitrak). However, these lands had been input into Habitrak during the initial set up. We corrected this by removing it for this year's report since CNLM had not been contracted during the reporting period (November 2007 – October 2008). Additionally, the Shelley (48.86 ac) and Cantarini/Holly Springs (234.15) projects were removed because the grading permits have not been issued yet (the grading permit is the trigger for entering gains/losses into Habitrak). Aviara (43.94 acres) was previously entered into Habitrak as a project gain. Note: This should have been entered as Existing Hardline. The acreage was removed from project gain, but was not added into the Existing Hardline layer. This will be corrected for next year's report.

Summary: 5956.7 ac (conserved acres reported last year) – 310.4 ac (City) – 48.86 ac (Shelley) – 234.15 (Cantarini/Holly Springs) + 43.94 ac (Aviara) = 5,407.23

- E-2 “Review of current policies and penalties” is a key action- but this has not been reviewed with stakeholders or resulted in any action. Enforcement penalties have been identified as a critical need since the HMP was adopted. Four years later these are still being “reviewed.” A comprehensive enforcement program could start with just a few key actions- basic things like who do you call to report a violation and how is this information tracked.

As noted above, the City and Preserve Steward work closely with the Preserve Managers in addressing enforcement issues. All preserve signs and public outreach materials (e.g. the City’s Edge Effects brochure) include information on how to report potential violations.

- E-2 Public Outreach- There was an initial printing of 500 of the edge effect brochures some time ago- but they now seem in short supply. The annual meeting would be a good opportunity to distribute lots of these to the NGO’s that can get them out to users of the open space areas. There is good info in the brochures- we just need to get a whole lot more of them out in circulation.

The City has produced several printings of the Edge Effects brochure and they were available at the public meeting. They have also been placed in the local libraries, City Hall, Agua Hedionda Lagoon Discovery Center, Buena Vista Lagoon nature center, and Batiquitos Lagoon visitor center for public posting and distribution. A number of the brochures were also provided to Preserve Calavera for distribution. Additionally, the brochure is available for free download on the HMP website (<http://www.carlsbadhmp.org/pdfs/edgeeffects.pdf>).

- E-3 We believe only one of these part-time rangers was in place during this reporting year- and the second was added after the City-owned land management contract was implemented. (Which is outside of this reporting period.) Also- what is the cumulative number of rangers in place- as compared to the 5 that were supposed to be provided per the approved OSMP?

From CNLM: One part time ranger (patrolled La Costa Villages, Buena Vista Creek and Calavera Hills) was in place during the entire reporting period, and the other was in place from May 2008 – October 2008. In addition, three CNLM staff regularly patrol all preserves at least weekly throughout the year. City Police Department staff and City Trail Captains and volunteers also assist in on-preserve education and enforcement activities.

The OSMP contains a recommendation that the City and Preserve Managers pool resources to hire five rangers; this was, however, not a mandate. The current number of enforcement personnel (from the Police Department, CNLM, and CDFG), described in Section 2.1.6, is the number that can be supported by current funding. Both the City budget and preserve endowment resources are limited at this time. The City and Preserve Managers are currently exploring alternatives to full-time personnel that can provide effective patrolling and deter habitat impacts within the preserve under the currently economic situation.

- E-3 This discussion of vernal pools seems to really minimize the fact that none of the vernal pools are being actively managed. Given the extreme regional risk to this habitat type it seems that management of these vernal pools should be a high priority concern.

The City has, and continues to, work with CDFG, North County Transit District, property owners, and local Homeowner's Associations to procure management for these properties.

- E-3 The financial summary identifies a balance of \$ 945,765.74. Part of the annual report should be identifying priority uses for these mitigation fees.

According to the HMP and Implementing Agreement, these funds can only be used for property acquisition to satisfy the gnatcatcher core area requirement (Sections 1.3.7 and 3.1.2).

- 14 It was our understanding that credits/debits are supposed to be allocated by habitat type. Please distinguish both credits and debits by habitat type. This is especially important as several of the restoration sites will be converting habitat type so this needs to be accurately tracked over time. Also there is supposed to be mapping that shows the location of debits so there is no chance the same area can be used more than once.

The mitigation for City projects at Lake Calavera is out-of-kind mitigation pursuant to the HMP (Section D.3.B); therefore the credits/debit system was not set up to be tracked by habitat type.

- 15 Table 3 shows Lake Calavera as 256.1 acres and Table 5 shows 266.1- which is correct?

The HMP lists this parcel as 266.1 acres. The report has been revised.

- 15-16 The figure and text is not a complete list of the wildlife undercrossings. Three key ones not shown are College Blvd near Cannon, Faraday near El Fuerte, and Tamarack. The report should also identify problems with undercrossings- like the one under Tamarack which has a gate installed making it no longer functional for larger mammals.

Thank you for the information. This information can be incorporated into next year's report. In order to facilitate the City's efforts on wildlife corridor and movement, please provide a map showing the locations of the undercrossings that Preserve Calavera would like to highlight, and a list of current or potential issues at these locations.

- 16 Figure 3 doesn't really identify several critical pinch points- and sections of linkages that remain at risk. For example Core 8 now appears to link to nothing. Key roads that effect the function of the linkages are not identified. Only one area, Palomar Airport Road, shows where an undercrossing is needed. This particular undercrossing was funded and has been delayed by the City claiming this would create a liability problem. Further information is needed on all of the locations where wildlife corridor improvements are needed.

Please see the above comments regarding wildlife corridors.

- 17 Table 6 doesn't identify several real problem areas- Link D at the Raceway includes a key pinch point. It would be helpful for this to include a functional assessment of the undercrossings- but it sounds like only one has had a functional assessment.

Please see the above comments regarding wildlife corridors.

- 17 The text that discusses the cameras used to determine if the Faraday undercrossing is functional is confusing because the only Faraday undercrossing shown on Figure 3 is not the Faraday undercrossing that is discussed in the text.

Figure 3 was corrected to include both Faraday undercrossings.

- 26 10.10-Duty to Enforce- For four years now the city has been "developing an enforcement policy." This is necessary for the City to be in full compliance with their "duty to enforce." How many complaints were filed in the last year and what action was taken? Until that question can be answered there is not a functional tracking system in place.

Section 10.10 of the Implementing Agreement (IA) details the City's responsibility with regard to "Duty to Enforce." This section states Carlsbad's obligation to enforce the terms of the Take Authorization Permit, HMP and IA, "specifically including the development of permitting and approval requirements set forth in Section 11 of this agreement." The City continues to be consistent with the requirements in Section 11 of the IA. While there is no explicit requirement for an enforcement policy to satisfy Section 10.10 of the IA, the City continues to carry out its enforcement obligations in a variety of ways, as described above and in the Annual Report.

- 26 11.3- Regulatory Implementation- F. Wetlands Protection Program- The city has been "developing" guidelines for riparian and wetland buffers for almost 4 years. Until these are in place there is not full compliance with this provision of the IA.

There is no requirement under the IA for these guidelines. Section 11.3 F states "For wetlands, impacts will be avoided to the maximum extent practicable as set forth in Section D.6 of the HMP and Sections D.7-6 and D.7-7. Impacts that cannot be avoided shall be minimized and mitigated in accordance with the wetland mitigation ratios set forth on Table 11 of the HMP." This policy is enforced for all projects.

- 28 2.3- Preserve Management and Reporting Program- Implementation of the OSMP is a key issue. Further description of progress as well as those items that are not yet implemented should be part of the annual reporting system.

The OSMP is a framework management plan (i.e., guidance document) and not a work plan.

- 28 14.7- Habitat-In-lieu Mitigation fees- please add status report of the progress in meeting the city's obligation to acquire land in the Gnatcatcher Core Area.

See Section 1.3.7 of the Annual Report.

- 34 Those items indicated on Table 14 as “in progress” should include a target date for completion.

The Annual Report is intended to show the condition of the preserve and summarize activities performed over the reporting cycle. As is the case with individual preserves, the Annual Report is not a work plan.

- 66 Table 17. Please provide some explanation of the items included on this table. Since these endowments are supposed to be sufficient to assure management of these lands “in perpetuity” it was our understanding that annual earnings are supposed to cover expenditures so that there is no decline in endowment value. We recognize that recent market conditions have effected many endowment funds. However, the total endowment shows over a 9% decline in one year (\$ 5,707,801 -\$5,186,993). What financial controls are in place to assure that these funds are never depleted?

Your comment was forwarded to the City’s Preserve Manager, CNLM, for an expert opinion. The text below describes the controls in place and an example of how CNLM manages their endowments.

Endowments are tied to the market, so if the market declines, the endowment will go down too. Endowments can decline below or rise above their inflation adjusted amount. CNLM follows the new policy and guidance from the Financial Accounting Standards Board – FAS 117-1, which provides the revised rules for endowment management. These rules require that CNLM maintain the permanently restricted amount of the endowment on its books even if the market value of the account falls below that. This means that when the market recovers and the value is again at or above the permanently restricted amount, the endowment corpus was not reduced. CNLM’s model is based on long-term (40+ year) averages of stock/fixed investment returns and they only spend 4-4.5% each year, even if the endowment is above its inflation adjusted amount. They spend less when the endowment is declining.

CNLM recently tested the robustness of the investment model through this downturn. using market returns on an 80/20 mix of equities and securities (CNLM's investment mix) since 1961 compared to inflation. The average rate of inflation has been 4.23% whereas the average return rate over the same period has been 9.19%. Therefore 4.96% [9.19 less 4.23] of earning could be spent and it would still keep up with inflation in the long run. CNLM is adjusting budgets, both this fiscal year and next, to ensure that endowments are not compromised and, according to local representatives, their board financial committee, Executive Director and CFO are monitoring the situation closely.

Appendix B

Batiquitos Lagoon - The population of Western Snowy Plover is described as “plummeting.” Shouldn’t this kind of population decline result in some clear management response?

The City has been in discussions with CDFG about their management and monitoring of Batiquitos Lagoon for several years. According to CDFG staff, the Department is currently assessing the issue and will devise a management response.

Buena Vista Creek Ecological Reserve

- Please add that Preserve Calavera provided matching grant funds for the fennel removal
- Please add that Preserve Calavera received a SCC Wetlands Recovery Project grant for the restoration of 1.8 acres of the BVCER. Project was initiated in September 2008 to be complete in one year.
- Please add that \$ 395,000 was allocated by the RWQCB for the restoration of 4 acres. Work expected to commence in 2009.

The information regarding the 1.8 acre restoration site has been added to the Annual Report. This was not included in CNLM's annual report and was not reported by Preserve Calavera when information was requested during HMP report preparation.

Buena Vista Lagoon

- Report shows no sensitive species surveys conducted- is this correct?

That is correct for the current year and the City has discussed the management and monitoring of Buena Vista Lagoon with CDFG. Table 15 shows a summary of all known surveys that have been conducted on this preserve.

Appendix C

Buena Vista Creek

- Please add that Preserve Calavera provided matching grant funds for the fennel removal

This was not included in CNLM's annual report and was not reported by Preserve Calavera when information was requested during HMP report preparation.

Buena Vista Lagoon

- BVLFF- this is an annual report- please describe only those activities carried out during the reporting period.

The information was gathered for the reporting period only; it was obtained through newsletters or direct responses from organizations.

Calavera

- Listing for DFG at BVCER is in the wrong location *Corrected.*
- Please add for Preserve Calavera- Continued quarterly wildlife tracking surveys.

The City is unaware of any wildlife tracking surveys and these are not mentioned in any of the preserve-specific annual reports. Wildlife tracking information is very helpful to preserve design and management and we request this information should be provided to the local Preserve Manager and the City's Preserve Steward for evaluation.

Thank you for the opportunity to comment on this draft report. We look forward to working with you toward full implementation of the HMP- and an annual report that lays out an action plan that will achieve full compliance and assure that the priceless resources of our preserve lands are preserved for the residents of today and for future generations.

Sincerely,

Diane Nygaard
On behalf of Preserve Calavera

Cc: David Zoutendyk USFWS, David Mayer CDFG

July 20, 2009

Ms. Joan Herkowitz
Buena Vista Audubon Society
PO Box 480
Oceanside, CA 92049-0480

**SUBJECT: CITY OF CARLSBAD HABITAT MANAGEMENT PLAN FOURTH
YEAR REPORT – RESPONSE TO COMMENT**

Dear Joan:

Thank you for your May 29, 2009 comments on the City's Fourth Year Habitat Management Plan (HMP) Annual Report (copy attached). We appreciate the attendance of the Buena Vista Audubon Society at our Annual Meeting on April 25, 2009 and your acknowledgement of the significant progress Carlsbad has made in implementing our HMP. Pursuant to your request, attached is a copy of the City's responses to the comment letter received from Preserve Calavera, dated May 29, 2009.

In addition to echoing the comments of Preserve Calavera, you also reiterated your concerns that the City has not completed processing of the Local Coastal Program Amendment (LCPA) for the City's Open Space Management Plan (OSMP) and HMP Ordinances. As we have discussed, these documents have been approved by the City, California Department of Fish and Game (CDFG), and U.S. Fish and Wildlife Service (USFWS) and are currently being used in HMP implementation.

Your comment letter notes that the Coastal Commission has listed items that need to be included in the HMP Implementation Plan, "to meet the State HMP requirements..." Since the HMP, and related documents such as the OSMP and Ordinances, were created within the context of CDFG's Natural Communities Conservation Planning (NCCP) Program, CDFG is the determinant on the consistency with "State HMP Requirements." The Coastal Commission's purview lies in their determination if the HMP documents are consistent with the California Coastal Act.

As you may remember, the City's HMP was deemed consistent with all relevant State and Federal requirements and CDFG and USFWS were prepared to issue Take Authorization to the City in December 1999. It was not until November 2004, with relatively minor additions, that a Coastal Commission approved HMP was formally adopted. While the City continues to work with the Coastal

Commission in their processing of the current LCPA, issues such as the City requiring CDFG to prepare Preserve Management Plans or negotiate a Conservation Easement template with all relevant State and Federal Wildlife Agencies are beyond the City's authority and control. We hope to resolve these and other issues of concern with the Coastal Commission in the near future and complete the processing of our LCPA. The City will provide the Buena Vista Audubon Society with copies of our correspondence with the Coastal Commission pertaining to the HMP Implementation Plan LCPA as requested.

Thank you again for your participation in our Annual Meeting and comments on our Annual Report. Please feel free to contact me at 760-602-4623 or Mike.Grim@Carlsbadca.gov if you have any questions.

Sincerely,

MICHAEL GRIM
Senior Planner

Attachments

c: Planning Director
 Assistant Planning Director
 Principal Planner de Cordova
 Associate Planner Kennedy
 Preserve Steward



Buena Vista Audubon Society
PO Box 480
Oceanside, CA 92049-0480

May 29, 2009

Mr. Mike Grimm, Senior Planner
City of Carlsbad
1635 Faraday Ave.
Carlsbad, CA 92008

Dear Mr. Grimm,

I attended the Carlsbad Habitat Management Plan (HMP) annual meeting on April 25, 2009 on behalf of the Buena Vista Audubon Society, and appreciated hearing presentations on the reserve status and the significant improvements that have been made to the management and monitoring of HMP lands within the City. I have read the extensive draft comment letter on the Carlsbad HMP Annual Report which you will receive from Diane Nygaard of Preserve Calavera, the result of her thorough review of the report. Rather than repeating a lot of the same concerns, requests for further information, and questions that appear in her letter, please note that we support her comments, and would like to receive a copy of your response to those comments when they are sent out.

In addition, as I mentioned to you at the meeting, we have concerns that the City has not completed an HMP Implementation Plan as required by the Coastal Commission within 3 years of the 2003 land use plan amendment that established the HMP. You indicated that the Implementation Plan, after being withdrawn from the Coastal Commission agenda in August 2008, was resubmitted and that there was a subsequent meeting with Commission staff to discuss what still needs to be included in the Plan to meet the State HMP requirements and be recommended for approval by Commission staff. You also indicated that some of the remaining issues involved coordination and agreement among the resource agencies. Please provide an update that lists the remaining items that need to be resolved and the City's proposed timeline and method of completing the Implementation Plan and meeting the HMP agreement.

Thank you for this opportunity to comment. If you have questions, I can be contacted at (760) 942-5167 or at jmherskowitz@yahoo.com.

Sincerely,

Joan Herskowitz
Co-Chair, Conservation Committee
Buena Vista Audubon Society

July 20, 2009

Ms. Mary H. Clarke
168 Elise Way
Oceanside, CA 92057

**SUBJECT: CITY OF CARLSBAD HABITAT MANAGEMENT PLAN FOURTH
YEAR REPORT – RESPONSE TO COMMENT**

Dear Ms. Clarke:

Thank you for your May 28, 2009 comments on the City's Fourth Year Habitat Management Plan (HMP) Annual Report (copy attached). We appreciate the participation of the Sierra Club in our HMP Annual Report process.

In addition to supporting the comments contained in the May 29, 2009 correspondence from Preserve Calavera, you noted three areas of concern of the Sierra Club: public input, rough step, and management/enforcement. Below are the City's responses to your comments.

Public Input

All Annual Reports are posted on the City's HMP Website. The HMP website address is listed in the report and was provided at the annual meeting. The City is currently undergoing a comprehensive redesign of its website which will be deployed in the near future. The redesigned website will make it easier for visitors to navigate the site and find important information. In the meantime, the HMP website can be accessed through the City's Planning Department Home Page by clicking on the "Habitat Management Plan" link. It can also be found with an internet search engine by using key words such as "Carlsbad HMP," "Carlsbad Preserve System," etc.

Rough Step

The Wildlife Agencies are charged with overseeing HMP Implementation, including "rough step." During preparation of the Annual Report, the City and Preserve Steward worked with the Wildlife Agencies to review all project impacts, preservation, and HMP Implementation and, after this review, it was determined that preservation has occurred in rough step with development. It is important to distinguish the difference in noting the timing of development and preservation between pre-HMP and post-HMP approved projects, as well as those preserves

within existing Homeowner's Associations that do not have active management and monitoring.

More specifically, project by project totals are included in Appendix A of the Annual Report. A total of 5,407 acres have been preserved (Appendix A, page 2, "Acres Inside Habitat Preserve" total). The target goal is 6,478 acres, which results in 83% ($5,407 \div 6,478$) of the target acreage for the preserve. If you add the City owned lands that went from Proposed Hardline to Existing Hardline (310.4), which are now under management, this brings the total to 5,717.4 acres ($5,407 + 310.4$), which is now 88% of the preserve target to 88% ($5,717.4 \div 6,478$). Project-by-project totals from last year's report (Appendix B) can be compared with project-by-project totals from this year's report (Appendix A).

Management/Enforcement

Many concrete enforcement activities have been conducted, many of which are new as of the 2007-2008 reporting period. See paragraphs 2 – 6 in section 2.1.6 of the annual report. Activities such as developing City ordinances and identifying personnel needs are being conducted through established procedures (i.e., creating an interdepartmental team to review issues and solutions, and presenting it to the Council). The City continues to work closely with the individual preserve managers to assist them in enforcement within their preserves.

Thank you again for your participation in our Annual Meeting and comments on our Annual Report. Please feel free to contact me at 760-602-4623 or Mike.Grim@Carlsbadca.gov if you have any questions.

Sincerely,

MICHAEL GRIM

Senior Planner

Attachment

c: Planning Director
Assistant Planning Director
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Mary H. Clarke
168 Elise Way
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(760) 231-7362
May 28, 2009

Mike Grim, Senior Planner
City of Carlsbad
1635 Faraday
Carlsbad, CA

RE: Comments on HMP Annual Report of March 25, 2009

Dear Mr. Grim:

On behalf of the North County MSCP/MHCP Task Force of the Sierra Club, San Diego Chapter, I am writing to comment on the HMP Annual Report of March 25, 2009.

I represented the Sierra Club, San Diego Chapter, on the development of the MHCP and have been following the implementation of the HMP by the City of Carlsbad. The Sierra Club – SD Chapter supports the comments on the 2009 HMP Annual Report from Preserve Calavera, and I would like to emphasize concerns in three crucial areas: public input; rough step; and management/enforcement.

1. Public Input

I note with concern that full annual reports for years two and three of HMP implementation are not posted on the website and, apparently, are not available except in summary form. Annual HMP reporting to the public is a key commitment of the HMP, and these reports need to be timely, complete and readily available to the public. I support Preserve Calavera's recommendations that the new HMP website should be linked to the City's website and that annual meetings should allow sufficient time for public input and a form should be provided for written comments.

2. Rough Step

Organizations such as the Sierra club, which are dedicated to the conservation of valuable environmental resources, are particularly concerned about the "rough step" condition in habitat conservation plans. The latitude provided by the rough step condition – that development may occur prior to the required conservation, as long as there is not a greater than 10% variance – must not be abused. In their comment letter, Preserve Calavera noted that the HMP Year 3 report indicated that habitat lost vs. habitat conserved was significantly out of the 10% range. Also Preserve Calavera was unable to determine exactly what happened in Year 4 that might have resulted in the increased conserved habitat numbers.

Conserved habitat vs. lost habitat numbers need to be specifically laid out so that the public can be assured that the rough step conditions are being met.

3. Management/Enforcement

We are concerned about management of Preserve lands and enforcement of restrictions within those areas. Preserve Calavera notes that several key management/enforcement issues still exist, including lack of a clear action plan to reduce threats to Preserve lands; lack of ordinances that specify penalties for violating restrictions in Preserve areas; lack of full staffing for enforcement activities; and the need for a system to track violations and enforcement actions. We urge the City to put appropriate management and enforcement tools into effect as soon as possible, so that the environmentally sensitive Preserve lands can be conserved and protected as planned.

Thank you for the opportunity to bring these concerns to your attention. Please contact me at (760) 231-7362 or via e-mail at clarkemh@aol.com if you have any questions.

Yours truly,

Mary H. Clarke
Co-Chair, North County MSCP/MHCP Task Force,
Sierra Club, San Diego Chapter

cc: Renee Owens, Chair, Conservation Committee, Sierra Club, San Diego Chapter
David Mayer, California Dept. of Fish and Game
David Zoutendyk, US Fish and Wildlife Service
Diane Nygaard, Preserve Calavera